

IN THE CIRCUIT COURT OF THE
11TH JUDICIAL CIRCUIT IN AND
FOR MIAMI-DADE COUNTY, FLORIDA

CASE NO.: _____

L.B., a minor child, by and through his
next friend and legal guardian, J.K. :
:

Plaintiff, :
:

vs. :
:

OUR KIDS OF MIAMI-DADE/MONROE, :
INC., FLORIDA KEYS CHILDREN'S
SHELTER, INC., and
FAMILY RESOURCE CENTER OF
SOUTH FLORIDA, INC. :
:

Defendants. :
/

COMPLAINT

The Plaintiff, L.B., a minor child, by and through his next friend and legal guardian, J.K., by and through undersigned counsel, hereby sues the Defendants, OUR KIDS OF MIAMI-DADE/MONROE, INC., FLORIDA KEYS CHILDREN'S SHELTER, INC., and FAMILY RESOURCE CENTER OF SOUTH FLORIDA, INC., and alleges:

JURISDICTION

1. This is a cause of action for damages that exceeds \$15,000.000, exclusive of attorney's fees, interests, and costs.
2. The cause of action accrued in Miami-Dade and Monroe Counties, Florida.

THE PARTIES

3. At all times material hereto, Plaintiff (hereinafter "L.B."), whose date of birth is May 4, 2010, was a minor foster child in the legal and physical custody of the State of Florida

Department of Children and Families (hereinafter the “Department”), OUR KIDS OF MIAMI-DADE/MONROE, INC., (hereinafter “OUR KIDS”), and/or FAMILY RESOURCE CENTER OF SOUTH FLORIDA, INC. (“FRC”), and was in the physical custody of FLORIDA KEYS CHILDREN’S SHELTER, INC. (hereinafter “FKCS”).

4. Due to the nature of the allegations as set forth herein below, L.B. is using a pseudonym as he was a victim of sexual abuse.

5. Defendant, OUR KIDS is a private non-governmental Florida Corporation operating its business in Miami-Dade and Monroe Counties, Florida.

6. At all times material hereto, OUR KIDS was the lead agency for community-based care in Miami-Dade and Monroe Counties, Florida pursuant to §§ 409.1671 and/or 409.986, et seq., Florida Statutes, and contracted with the Florida Department of Children and Families (hereinafter “the Department”) as a private non-governmental entity to provide foster care and related services to children in the custody of the State of Florida, including L.B.

7. At all times material hereto, OUR KIDS was an independent contractor of the Department with regard to its duty to operate the system of foster care and related services for children in Miami-Dade and Monroe Counties, including providing an appropriate system of care and placements.

8. At all times material hereto, OUR KIDS subcontracted out the provision of case management services in Miami-Dade and Monroe Counties.

9. At all times material hereto, OUR KIDS was required to monitor the performance of its sub-contracted providers to ensure compliance with applicable Florida Statutes, Florida Administrative Code rules, Department Operating Procedures, OUR KIDS Policies and Procedures, and the common law, to ensure the health, welfare, and safety of children in the custody of the State of Florida, including L.B.

10. Defendant, FKCS, is a private non-governmental Florida Corporation operating its business in Monroe County, Florida.

11. At all times material hereto, FKCS was a private non-governmental entity providing foster care and related services, including, but not limited to, emergency shelter services to minor children in the legal and physical custody of the State of Florida, including L.B., pursuant to §§ 409.1671 and/or 409.986, et. seq., Florida Statutes.

12. At all times material hereto, FKCS operated the Poinciana Emergency Shelter located in Key West, Monroe County, Florida, which was licensed to provide twenty-four (24) hour continuous supervision to children between the ages of infant and ten (10).

13. At all times material hereto, FKCS was an independent contractor with regard to its provision of emergency shelter services and operation of its shelters and group homes.

14. At all times material hereto, OUR KIDS was continually required to monitor the performance of FKCS regarding the provision of emergency shelter services to ensure compliance with applicable Florida Statutes, Florida Administrative Code rules, Department Operating Procedures, OUR KIDS Policies and Procedures, FKCS Policies and Procedures, and the common law, to ensure the health, welfare, and safety of children in the custody of the State of Florida, including L.B.

15. Defendant, FRC is a private non-governmental Florida Corporation operating its business in Miami-Dade County, Florida.

16. At all times material hereto, FRC contracted with OUR KIDS pursuant to §§ 409.1671 and/or 409.986, et. seq., Florida Statutes, as a private non-governmental entity to provide foster care and related services, including, but not limited to, case management services and courtesy case management services, to children in the custody of the State of Florida, including L.B.

17. At all times material hereto, FRC was an independent contractor of OUR KIDS with regard to its duty to provide foster care and related services, including case management services, to children in Miami-Dade County.

18. At all times material hereto, OUR KIDS was required to monitor the performance of FRC regarding the provision of case management and courtesy case management services to ensure compliance with applicable Florida Statutes, Florida Administrative Code rules, Department Operating Procedures, OUR KIDS Policies and Procedures, FRC Policies and Procedures, and the common law, to ensure the health, welfare, and safety of children in the custody of the State of Florida, including L.B.

19. Pursuant to the contractual arrangements between the Defendants, at all times material hereto, OUR KIDS, FKCS, and FRC through their agents and employees, were not acting as officers, employees, or agents of the State of Florida for purposes of § 768.28, Florida Statutes.

GENERAL ALLEGATIONS

20. On or about November 22, 2013, L.B. was placed in the custody of the State of Florida due to inadequate supervision and deplorable conditions in the home **after L.B.'s eleven-month-old brother nearly drowned in the bathtub.**

21. On or about **November 22, 2013, L.B.** was placed in the care, custody, and supervision of **OUR KIDS** to provide foster care and related services.

22. On or about November 22, 2013, OUR KIDS' Intake Department accepted L.B.'s case for services and was responsible for assisting in the decision about the best course of action for L.B., escalating L.B.'s case internally if there was concern for his safety and well-being, completing an initial Intake Assessment, completing a final Intake Assessment, reviewing all documents and information available for L.B., and making recommendations with respect to appropriate services and placement needs.

23. On or about November 22, 2013, due to a shortage of placements in Monroe and Miami-Dade Counties, OUR KIDS authorized placement of L.B., who was three (3) years old, at FKCS' Poinciana Emergency Shelter in Key West, Florida, more than two (2) hours away from his family, and FKCS accepted L.B. for placement at its Poinciana Emergency Shelter despite knowledge that FKCS was a dangerous placement, could not meet L.B.'s serious medical and mental health needs, could not meet L.B.'s immediate need for protection and safety, and that L.B. needed a higher level of care than FKCS could provide.

24. At all times material hereto, OUR KIDS and FKCS knew that FKCS was a dangerous placement where young children's mental health deteriorated, at-risk behaviors escalated, and children were exposed to numerous other harms, including sexual abuse.

25. On or about December 6, 2013, OUR KIDS facilitated and participated in a staffing on L.B.'s case knew that L.B. had been placed at FKCS' Poinciana Shelter in Key West, for two (2) weeks and that he needed to be placed in a home like setting, not FKCS, a dangerous emergency shelter that could not meet L.B.'s serious medical and mental health needs and could not meet L.B.'s immediate need for protection and safety.

26. At all times material hereto, OUR KIDS was the central Point of Contact for referring children for Level of Care Assessments and accessing other behavioral health assessments and mental health services as needed.

27. At all times material hereto OUR KIDS was required to:

- a. Provide consultation in accessing screening for mental health issues, professional assessments, and timely treatment at levels appropriate to the condition and severity of the child for children in out-of-home care;
- b. Manage the referral, quality, and tracking of Level of Care Assessments;
- c. Serve as a consultant in making timely, appropriate, and effective referrals to

mental health and behavioral services;

- d. Provide assistance in obtaining clinical case consultation for especially complex cases;
- e. Manage the multi-disciplinary staffing process for placement in Specialized Therapeutic Foster Care; and
- f. Manage the process of referring children for initial Suitability Assessments for residential treatment facilities.

28. The purpose of the Level of Care Assessment was to, *inter alia*, provide recommendations for treatment and placement based upon professional judgment.

29. OUR KIDS was required to conduct a Level of Care staffing for L.B. within thirty (30) days of his placement in shelter status to determine his final level of care, but it failed to do so.

30. On or about December 20, 2013, OUR KIDS and FKCS received a copy of L.B.'s Level of Care Assessment which diagnosed him with Adjustment Disorder with Mixed Disturbance of Emotions and Conduct and rule out Posttraumatic Stress Disorder and put OUR KIDS and FKCS on notice that L.B. was experiencing significant depression and behavioral problems including aggression, hyperactivity and impulsivity.

31. On or about January 2, 2014, OUR KIDS facilitated and participated in a 30-day Level of Care Determination staffing and assigned L.B. to a Level of Care 2, thereby acknowledging that L.B. needed enhanced services to support a community placement and that L.B. needed to be placed in a foster home; however, OUR KIDS allowed L.B. to remain at FKCS, a dangerous placement that could not meet L.B.'s serious medical and mental health needs and could not meet L.B.'s immediate need for protection and safety.

32. On or before February 7, 2014, OUR KIDS knew of numerous systemic deficiencies within its system of care including, but not limited to, shortage of appropriate foster homes, overutilization of group care especially for young children ages five (5) and younger, lack of timeliness in locating placements, and lack of targeted recruitment for new foster homes.

33. On or about February 7, 2014, OUR KIDS received written notice from the Department of systemic deficiencies within OUR KIDS' system of care including, but not limited to, shortage of appropriate foster homes, overutilization of group care especially for young children ages five (5) and younger, lack of timeliness in locating placements, and lack of targeted recruitment for new foster homes, and OUR KIDS was required to submit a corrective action plan to address these systemic deficiencies.

34. Upon information and belief, on or about February 7, 2014, D.M., a six (6) year-old foster child, was placed in the care, custody, and supervision of OUR KIDS to provide foster care and related services.

35. On or before February 7, 2014, OUR KIDS and FKCS knew that D.M. came into foster care due to being a victim of sexual abuse by his adult brother and that he had previously been involved in a child-on-child sexual abuse incident while placed at FKCS in the past.

36. On or about February 7, 2014, due to a shortage of placements in Monroe and Miami-Dade Counties, OUR KIDS authorized placement of D.M. at FKCS' Poinciana Emergency Shelter in Key West, Florida, and FKCS accepted D.M. for placement at its Poinciana Emergency Shelter.

37. At all times material hereto, OUR KIDS and FKCS knew that, due to D.M.'s history of sexual abuse victimization and/or perpetration, D.M. was required to have a safety plan implemented to prevent him from sexually abusing other children, including L.B., but OUR KIDS and FKCS failed to implement a sufficient safety plan to protect L.B., a younger vulnerable child,

from sexual abuse by D.M.

38. On or before February 28, 2014, OUR KIDS and FKCS knew that since D.M. had been placed at FKCS, L.B. had been trying to imitate him in virtually everything, but OUR KIDS and FKCS failed to implement a sufficient safety plan, failed to ensure that D.M. did not have access to L.B. to sexually abuse him, and failed to ensure a safe placement was found for L.B.

39. On or about March 13, 2014, OUR KIDS acknowledged that there was a “big concern” with having little children like L.B. placed in a residential facility like FKCS and efforts needed to be made to move L.B. out of FKCS, a dangerous placement, and into a more family like setting.

40. On or before March 15, 2014, OUR KIDS and FKCS knew that there had been an escalation in D.M.’s behavior since being placed at FKCS, including, knocking on L.B.’s bedroom door trying to get in, sneaking into L.B.’s bedroom during the night and climbing into bed with him, rubbing L.B. with lotion, and putting all of L.B.’s shoes in his room so L.B. would have to go into D.M.’s bedroom, but OUR KIDS and FKCS failed to implement a sufficient safety plan, failed to ensure that D.M. did not have access to L.B. to sexually abuse him, and failed to ensure a safe placement was found for L.B.

41. On or before March 15, 2014, FKCS acknowledged that D.M. was “actively seeking to do what was done to him” and FKCS informed OUR KIDS that FKCS “feared” for L.B., but OUR KIDS and FKCS failed to implement a sufficient safety plan or take any action whatsoever to protect L.B. from sexual abuse by D.M.

42. On or before March 15, 2014, D.M. sexually assaulted L.B. at FKCS.

43. On or before March 16, 2014, OUR KIDS knew that even though L.B. was sexually assaulted at FKCS and needed to be placed in a safe setting, there were “very limited placement options” for foster children in Monroe County, including L.B., other than FKCS.

44. On or about March 17, 2014, OUR KIDS and FKCS implemented a safety plan for L.B. and placed an “Alert A” on him confirming that he was the victim of sexual abuse.

45. On or about March 24, 2014, OUR KIDS and FKCS knew that L.B.’s behavior was deteriorating while placed at FKCS and that he was displaying signs of sexual abuse victimization, including smearing feces on the walls at daycare.

46. On or about March 25, 2014, OUR KIDS became directly involved with locating a placement for L.B. because he had been in the FKCS Poinciana Emergency Shelter for more than four (4) months, had been the sexual abuse victim of a sexually reactive child while placed at FKCS, and there was a total lack of placements for L.B. in Monroe County.

47. On or about March 26, 2014, OUR KIDS identified Raquel Fuentes, a foster parent in Miami-Dade County, as a potential placement for L.B. despite knowledge that there was a placement hold on this foster home and that Raquel Fuentes could not meet L.B.’s serious medical and mental health needs, could not meet L.B.’s immediate need for protection and safety, and that L.B. needed a higher level of care than Raquel Fuentes could provide.

48. Prior to March 26, 2014, in addition to the placement hold on Raquel Fuentes’ foster home, OUR KIDS knew of the following:

- a. Raquel Fuentes only wanted to be a foster parent for children ages five (5) through fifteen (15);
- b. Raquel Fuentes had only been licensed as a foster parent for five (5) months;
- c. Children’s Home Society of Florida (hereinafter “CHS”), OUR KIDS’ subcontracted agency that was initially involved in the licensure of Raquel Fuentes’ foster home, had expressed concerns about Ms. Fuentes’ ability to appropriately care for foster children and refused to place foster children in her care;

d. The Guardian Ad Litem assigned to children previously placed in Raquel Fuentes' foster home strongly recommended that no children be placed in the care of Ms. Fuentes because: Ms. Fuentes could not provide an appropriate foster home placement for abused, neglected and/or abandoned children; Ms. Fuentes had displayed inappropriate and unacceptable actions towards foster children placed in her care; Ms. Fuentes used inappropriate methods of punishment on foster children; Ms. Fuentes expressed negative attitude toward foster children placed in her care; Ms. Fuentes made foster children placed in her care feel like a burden instead of feeling wanted, loved, and care for; and Ms. Fuentes refused any help to improve her parenting skills; and

e. Raquel Fuentes expressed that perhaps foster parenting was not for her.

49. On or about March 26, 2014, OUR KIDS had knowledge that CHS determined that the placement hold needed to continue to be in place on Raquel Fuentes' foster home and no foster child should be placed there.

50. On or about March 26, 2014, OUR KIDS ignored the concerns raised by CHS and the Guardian ad Litem and decided to deviate from its standard licensing practice by directly licensing the Raquel Fuentes foster home and making all placement decisions regarding the Raquel Fuentes foster home.

51. On or about March 26, 2014, despite all of the concerns known by OUR KIDS with respect to the Raquel Fuentes foster home and that Raquel Fuentes could not meet L.B.'s serious medical and mental health needs, could not meet L.B.'s immediate need for protection and safety, and that L.B. needed a higher level of care than Raquel Fuentes could provide, OUR KIDS determined that L.B. should be placed in this foster home.

52. On or about March 30, 2014, OUR KIDS and FKCS knew that L.B.'s behavior

escalated and his mental health continued to deteriorate after his sexual assault at FKCS, including frequent outbursts, spreading feces all over the bathroom, being defiant to the FKCS house parents, being destructive with toys in the house, and taking things from other children and stuffing them inside a stuffed penguin.

53. On or about April 1, 2014, OUR KIDS knew that additional case workers were “uncomfortable” with Raquel Fuentes as a foster parent and that Raquel Fuentes was requesting extra board rate to accommodate normal costs associated with caring for foster children.

54. On or about April 6, 2014, despite all of the concerns and red flags it knew regarding the Raquel Fuentes foster home and despite there being a placement hold on the home, OUR KIDS authorized placement of L.B. out of county in the Raquel Fuentes foster home, a known dangerous placement that could not meet L.B.’s serious medical and mental health needs, could not meet L.B.’s immediate need for protection and safety, and despite knowledge that L.B. needed a higher level of care than Raquel Fuentes could provide.

55. On or about April 9, 2014, despite knowledge of all of the concerns regarding the Raquel Fuentes foster home and CHS’ refusal to lift the placement hold on this home, OUR KIDS decided to lift the placement hold on Raquel Fuentes’ foster home and allowed L.B. to remain in this dangerous placement that could not meet L.B.’s serious medical and mental health needs and could not meet L.B.’s immediate need for protection and safety.

56. On or about April 17, 2014, OUR KIDS assigned FRC as L.B.’s courtesy case management agency while he was placed in Raquel Fuentes’ foster home in Miami-Dade County and FRC began providing courtesy case management supervision to L.B.

57. On or before April 17, 2014, FRC had knowledge of L.B.’s mental health and behavioral needs, L.B.’s sexual assault while placed at FKCS, and all of the concerns regarding the Raquel Fuentes foster home.

58. On or about May 7, 2014, OUR KIDS conducted a Quality Assurance review on L.B.'s case and again ignored the dangers regarding the Raquel Fuentes foster home, including that L.B. needed a higher level of care, the home could not meet L.B.'s immediate need for protection and safety, the home was a dangerous placement, and that L.B. was at substantial risk of serious harm.

59. On or about May 14, 2014, OUR KIDS acknowledged that there was a "placement monster" in Miami-Dade and Monroe Counties for children assigned to licensed foster care and that there continued to be a shortage of safe placements for children within its system of care.

60. In May 2014, FRC and OUR KIDS knew that FRC had trouble gaining access to Raquel Fuentes' foster home, but FRC and OUR KIDS failed to take any action and allowed L.B. to remain placed in this dangerous placement despite knowledge that Ms. Fuentes could not meet L.B.'s serious medical and mental health needs, could not meet L.B.'s immediate need for protection and safety, and despite L.B.'s need for a higher level of care.

61. In 2014, the Department facilitated a peer consultation to examine the Southern Region, the Department catchment area where OUR KIDS was located, and advised OUR KIDS of the following systemic concerns regarding its child protection system of care:

- a. There was an absence of genuine partnership and trust among OUR KIDS and its subcontracted agencies;
- b. There was an absence of on-going leadership collaboration across OUR KIDS' system of care with a perception that the system lacked transparency while operating in a high pressure and critical environment;
- c. A high turnover in staff had resulted in an inexperienced workforce that affected the quality across the entire system of care;
- d. The licensing, recruitment and retention of foster homes had not been sufficient

to meet projected goals and unable to support even a modest increase in need;
and

e. OUR KIDS needed to increase its oversight, support and accountability of case management services by implementing a robust information reporting system and reviewing performance levels closely and frequently.

62. On or about July 1, 2014, because of the placement crisis in Miami-Dade and Monroe Counties, OUR KIDS assumed direct responsibility for the recruitment, licensing, training and support responsibility for all foster homes in Miami-Dade and Monroe Counties.

63. On or about July 11, 2014, OUR KIDS and FRC obtained new information that Raquel Fuentes had caused L.B. to miss multiple therapy appointments to address his sexual abuse victimization and that L.B. was going to be dropped from the program if he missed one more session.

64. On or about July 13, 2014, OUR KIDS and FRC obtained new information that Raquel Fuentes was “beginning to become a serious problem” because she was preventing L.B. from having phone calls and visits with J.K.

65. On or about July 15, 2014, OUR KIDS and FRC knew that L.B. continued to deteriorate while in foster care when they learned that L.B. had been vomiting and his doctor determined that it was due to his emotional status and overanxious disorder.

66. On or about July 16, 2014, OUR KIDS admitted that prior to placing L.B. in Raquel Fuente’s foster home, it had concerns that having more than two (2) foster children placed in Raquel Fuentes’ care was going to be very challenging for Ms. Fuentes, that Ms. Fuentes now had four (4) foster children placed in her care, all of whom were five (5) years old and younger and one (1) of whom was special needs, that Raquel Fuentes was relatively new as a foster parent, and that Raquel Fuentes’ last placement did not go so well.

67. However, OUR KIDS still allowed L.B. to remain in this dangerous placement where he was at substantial risk of serious harm.

68. On or about July 23, 2014, OUR KIDS and FRC knew that an abuse report was received through the Department's abuse registry alleging that Raquel Fuentes bathed L.B. in cold water when he was bad and that Raquel Fuentes put L.B. in time out for very long periods of time; however, OUR KIDS and FRC allowed L.B. to remain in this dangerous placement where he was at substantial risk of serious harm.

69. OUR KIDS and FRC learned that L.B. stated that Raquel Fuentes would bathe him in cold water when he was bad, would put him in time out for very long periods of time, and that Ms. Fuentes and her children would scare him with masks.

70. On or about August 5, 2014, L.B. was finally removed from Raquel Fuentes' foster home and placed in a foster home in Monroe County.

71. OUR KIDS knew that L.B.'s behaviors continued to worsen and his mental health continued to deteriorate due to the abuse and neglect he suffered while in foster care, including physical aggression towards his brother, foster parent, teacher, foster siblings, and peers, and property damage.

72. On or about September 24, 2014, OUR KIDS received a copy of L.B.'s psychological evaluation which recommended that L.B. be placed in a specialized therapeutic foster home, that he be the only child in the home, and that he receive medication, behavioral management, and individual psychotherapy, but OUR KIDS failed to ensure he received all of those services to address his serious medical and mental health needs in accordance with professional judgment.

73. Notwithstanding its knowledge of L.B.'s serious emotional need for specially trained foster parents, on or about October 7, 2014, OUR KIDS facilitated and participated in a

Multi-Disciplinary Team Staffing for L.B. and, contrary to professional judgment, decided that L.B. should not be placed in a specialized therapeutic foster home.

74. On or about October 10, 2014, OUR KIDS knew that L.B., who had been potty trained, had begun to defecate in his underwear and was refusing to use the bathroom.

75. On or about October 24, 2014, OUR KIDS received a copy of L.B.'s psychiatric evaluation which confirmed L.B.'s sexual abuse victimization at FKCS, including penetration, confirmed L.B. had been given cold showers and locked in a room at Raquel Fuentes' foster home, diagnosed L.B. with new diagnoses of Oppositional Defiant Disorder and rule out Conduct Disorder, and recommended that L.B. be placed on psychotropic medication at the age of four (4).

76. In January 2015, OUR KIDS knew that L.B.'s behaviors continued to worsen and his mental health continued to deteriorate while in foster care, including displaying depressive symptoms, having a blunted affect, isolating himself, and stating that the medication he was taking sometimes makes him "crazy in the head;" yet despite all of this knowledge, OUR KIDS took L.B. off of the waiting list for specialized therapeutic foster care which would provide him with specially trained foster parents to address his significant mental health needs.

77. On or about November 2, 2015, OUR KIDS knew that L.B. was no longer receiving therapeutic or behavioral services and his poor impulse control behavior had escalated at school and at home, including tearing things off of the walls in the classroom, knocking things off of his teacher's desk, not listening to directions, drawing on the walls at home, and tearing apart his clothes and bedding.

78. On or about November 5, 2015, OUR KIDS knew that L.B.'s mental health had deteriorated so significantly while in foster care over the past two (2) years, that at the age of only five (5) years-old, L.B. was institutionalized and Baker Acted for the first time for six (6) days after he was determined to be a danger to himself.

79. On or about December 28, 2015, OUR KIDS received a copy of another psychological evaluation of L.B. which described L.B. as a “depressed little boy” with an affect that was “almost completely flat,” diagnosed L.B. with Attention Deficit Hyperactivity Disorder; Conduct Disorder, Childhood-Onset Type, Depressive Disorder, Unspecified, and rule out Post Traumatic Stress Disorder, and recommended that L.B. be placed in a locked residential treatment facility or that he receive intensive services in his current placement in accordance with professional judgment.

80. On or about December 29, 2015, OUR KIDS facilitated and participated in a Multi-Disciplinary Team Staffing where it again recommended against placing L.B. in a therapeutic setting, contrary to professional judgment.

81. OUR KIDS knew that L.B.’s behaviors continued to worsen and his mental health continued to deteriorate while in foster care, including barricading himself under his teacher’s desk, destroying property, physical aggression, having to be restrained at school, an increase in discipline referrals at school, and night terrors related to the abuse he suffered while in foster care.

82. On or about August 19, 2016, L.B. was placed in the care of J.K.

83. OUR KIDS knew that L.B.’s behaviors continued to escalate in school, including physical aggression, attempted elopements, and multiple disciplinary actions resulting in him being placed in a self-contained classroom.

84. OUR KIDS knew that L.B. continued to display symptoms of Post-Traumatic Stress Disorder, including withdrawn behavior, night terrors, fear of the dark, and fear of separation from his caregivers as a result of the abuse and neglect he suffered while in foster care.

85. On or about January 7, 2017, OUR KIDS knew that L.B. was Baker Acted for the second time due to visual hallucinations as a severe reaction to his psychotropic medication.

86. On or about May 1, 2017, L.B. was placed in the permanent guardianship of J.K.

**COUNT I – NEGLIGENCE CLAIM AGAINST
OUR KIDS OF MIAMI-DADE/MONROE, INC.**

87. Plaintiff hereby reavers and realleges paragraphs 1-9, 14, 16-56, and 58-86 as if fully set forth herein.

88. At all times material hereto, OUR KIDS, as the lead community-based agency contracted to provide child welfare services in Miami-Dade and Monroe Counties, had the following statutory, contractual, and common law duties:

- a. To keep L.B. safe while in its care, custody, and supervision;
- b. To provide a safe, secure environment where L.B. was free from unreasonable risk of harm;
- c. To establish and maintain an adequate system for case management and ensuring appropriate oversight of subcontracted agencies;
- d. To continually monitor the performance of subcontracted agencies to ensure they were meeting children's needs for services and safety;
- e. To have available an appropriate continuum of services to address L.B.'s mental health and behavioral needs;
- f. To have available an appropriate continuum of placements including traditional foster homes and specialized therapeutic foster homes for children in its system of care, including L.B.;
- g. To protect L.B. from further abuse, neglect, and victimization;
- h. To investigate the fitness of any proposed placement for L.B., taking into account his individualized physical, emotional, behavioral, and social needs, as well as his background and history;
- i. To ensure that all available information is provided to emergency shelters regarding the foster children placed therein, including whether the child had a history of sexual abuse, sexual acting out, and/or sexual aggression, to enable shelter placements to implement all precautionary measures to keep all foster children in that facility safe, including L.B.;

- a. To ensure safety plans, plans of care, and any other necessary safety measures were implemented to ensure all foster children with known sexual histories would not engage in further child-on-child sexual abuse incidents;

- j. To ensure that all recommendations from assessors, evaluators, and other professionals regarding L.B., were followed and implemented in a timely manner;
- k. To ensure that L.B. received appropriate services to meet his needs, including, but not limited to, individual counseling, education services, behavioral services, targeted case management, and psychiatric treatment;
- l. To ensure that all children in emergency shelter care, including L.B., were safe, appropriately cared for, and adequately supervised;
- m. To recommend denial, suspension and or revocation of a foster home license based upon an intentional or negligent act materially affecting the health or safety of children in the home; and
- n. To ensure that placement holds were not ignored and foster children, including L.B., were not placed in a foster home when there was a placement hold on the home.

89. OUR KIDS, through its agents and/or employees, breached said non-discretionary and non-delegable duties.

90. As a direct and proximate result of the aforementioned breaches, L.B. suffered emotional harm and deteriorating mental health and was further subjected to sexual abuse, physical abuse, emotional abuse, and neglect, and will continue to suffer severe bodily harm and resulting pain and suffering, deterioration, discomfort, disability, mental anguish, loss of capacity for the enjoyment of life, and expenses of hospitalization, medical and nursing care and treatment, exacerbation of preexisting conditions, and other reasonably foreseeable compensatory damages. The losses are either permanent or continuing in nature and L.B. will suffer such losses in the future.

WHEREFORE, Plaintiff demands judgment against Defendant, OUR KIDS OF MIAMI-DADE/MONROE, INC., for compensatory damages, costs, and all other such relief as the Court may deem just and proper.

COUNT II – CULPABLE NEGLIGENCE CLAIM AGAINST
OUR KIDS OF MIAMI-DADE/MONROE, INC.

91. Plaintiff hereby reavers and realleges paragraphs 1-9, 14, 16-56, and 58-86 as if fully set forth herein.

92. The cumulative actions on the part of Defendant OUR KIDS exhibited willful and wanton disregard of human rights, safety, and/or property in its provision of protective supervision to L.B. and/or exhibited reckless indifference or grossly careless disregard of human life in its provision of protective supervision to L.B. based upon the following facts:

- a. OUR KIDS had knowledge that it operated a child welfare system of care in Miami-Dade and Monroe Counties with insufficient placements to appropriately meet foster children's needs, including L.B., because it had a shortage of traditional foster homes and no specialized therapeutic foster homes in Monroe County;
- b. OUR KIDS had knowledge that it operated a child welfare system of care in Miami-Dade and Monroe Counties with insufficient mental health and behavioral services to meet foster children's needs, including L.B.;
- c. OUR KIDS over-utilized placement of young children, including L.B., in dangerous emergency shelters with knowledge that these children would be exposed to harms including sexual abuse;
- d. OUR KIDS had knowledge that FKCS Poinciana Emergency Shelter was a dangerous placement for L.B., that it could not meet his mental health needs or protect him from further harm, and failed to ensure he received the appropriate services and safe placement he needed;
- e. OUR KIDS failed to ensure L.B. was immediately placed in a specialized

therapeutic foster home when recommended by professional judgment;

- f. OUR KIDS failed to ensure L.B. immediately received individual counseling, behavior analyst services, psychiatric treatment, and targeted case management when he was placed in foster care despite knowledge that these services had been recommended and were necessary to ensure his safety and prevent him from deteriorating; and
- g. OUR KIDS had knowledge that Raquel Fuentes' foster home had a placement hold on it and was a dangerous placement for L.B. that could not meet his mental health needs or protect him from further harm, but authorized placement anyway and failed to ensure his safety and prevent him from deteriorating;

93. The caps and limitations of §§ 409.1671 and 409.993, Florida Statutes, are inapplicable to L.B.'s damages, which are described in paragraph 90 because of OUR KIDS' reckless, willful and/or dangerous behaviors and because OUR KIDS did not meet other statutory requirements and conditions regarding appropriate coverage as to avail itself of said caps.

WHEREFORE, Plaintiff demands judgment for damages in excess of the statutory caps found in §§ 409.1671 and 409.993, Florida Statutes, against Defendant, OUR KIDS OF MIAMI-DADE/MONROE, INC.

**COUNT III – 42 U.S.C. § 1983 CLAIM AGAINST
OUR KIDS OF MIAMI-DADE/MONROE, INC.**

94. Plaintiff reavers and realleges paragraphs 1-9, 14, 16-56, and 58-86 above as if fully set forth herein.

95. This action arises under and is brought pursuant to 42 U.S.C. §1983 to remedy the deprivation, under color of state law, of Plaintiff's guaranteed rights under the Fourteenth Amendment of the United States Constitution.

96. At all times material hereto, OUR KIDS was a “person” and was acting under the color of state law within the meaning of 42 U.S.C. § 1983.

97. At all times material hereto, pursuant to §§ 409.1671(1)(f)(1) and 409.986, et. seq., Florida Statutes, although foster care was a public function traditionally within the exclusive prerogative of the State of Florida, OUR KIDS assumed responsibility as a private non-governmental entity.

98. At all times material hereto, it was clearly established that children in the physical custody of the state foster care system, including L.B., had the constitutionally protected right to be safe and free from unreasonable risk of harm and to receive services in accordance with professional judgment.

99. OUR KIDS established and enforced a custom, policy, or practice that resulted in a placement crisis by failing to have or obtain sufficient placements for foster children so that children could be placed in accordance with professional judgment.

100. OUR KIDS established and enforced a custom, policy, or practice of over-utilizing dangerous emergency shelters and group care for young foster children.

101. OUR KIDS established and enforced a custom, policy, or practice of allowing foster children with known mental, behavioral, and emotional problems to be placed in dangerous emergency shelter placements, notwithstanding that it was exposing such children to the dangers of sexual abuse.

102. OUR KIDS established and enforced a custom, policy, or practice that failed to ensure that mental health and behavioral needs of foster children in state custody were assessed, evaluated, and treated in accordance with professional judgment.

103. OUR KIDS established and enforced a custom, policy, or practice on a widespread basis that failed to require recommendations from psychological evaluations, psychiatric

evaluations, mental health evaluations, Level of Care Assessments, and Suitability Assessments, to be followed in accordance with professional judgment, thereby exposing children in its care to the substantial risk of serious harm.

104. OUR KIDS established and enforced a custom, policy, or practice which did not have adequate foster care placements to meet the placement needs of foster children in Miami-Dade and Monroe Counties because it had a shortage of traditional foster homes and no specialized therapeutic foster homes in Monroe County.

105. OUR KIDS established and enforced a custom, policy, or practice of failing to appropriately monitor its subcontracted providers and of deliberately failing to learn of the dangers that children in its custody were exposed to.

106. OUR KIDS was responsible for, but failed to ensure that children under its care, including L.B., had a complete and accurate plan of care that addressed their needs consistent with their mental health evaluations and their level of care and failed to continually assess and determine any need for service referrals in accordance with professional judgment.

107. At all times material hereto, OUR KIDS did not provide services or placements to L.B., who was in the physical and legal custody of OUR KIDS, in accordance with professional judgment, and was deliberately indifferent and/or acted with reckless disregard to the Plaintiff's health, safety, and welfare and Constitutional and federal rights, including, without limitation, by utilizing dangerous emergency shelters for children in its care, utilizing dangerous foster homes with placement holds as placements for children in its care; failing to ensure that L.B. was placed in a safe environment that could meet his needs, failing to ensure a sufficient safety plan was implemented and followed to protect L.B., a younger vulnerable child, from sexual abuse by D.M., an older sexual abuse victim and/or perpetrator; failing to ensure that L.B. received individual counseling as necessary and recommended; failing to ensure that L.B. received behavior analyst

services as necessary and recommended; failing to ensure L.B. was placed in a specialized therapeutic foster home when recommended; failing to have appropriate and available placements for foster children in Miami-Dade and Monroe Counties; failing to monitor its subcontractors to ensure child safety, and by directly exposing L.B. to sexual abuse, physical abuse, emotional abuse and neglect and causing his mental health condition to deteriorate.

108. OUR KIDS established and maintained an unconstitutional system of care that resulted in the widespread harm to foster children, including L.B., because it abdicated its constitutional and statutory duties to ensure that each child in its care was free from harm resulting in a child welfare system that blatantly ignored and/or deliberately failed to learn of the plethora of red flags, dangers and warning signs that L.B.'s needs were not being properly addressed and provided for.

109. OUR KIDS violated L.B.'s Constitutional rights and exposed him to a substantial risk of serious harm by:

- a. Accepting responsibility for the care of L.B. knowing that L.B. was in immediate need of safe placement, but authorizing placement at the FKCS Poinciana emergency shelter, a dangerous placement that could not protect L.B. from harm.
- b. Accepting responsibility for the care of L.B. knowing that L.B. was in immediate need of therapeutic services, but failing to refer him for immediate therapeutic services.
- c. Accepting responsibility for the care of L.B. and exposing him to substantial risk of serious harm by failing to ensure a sufficient safety plan was implemented and followed to protect L.B., a younger vulnerable child, from

sexual abuse by D.M., an older known victim and/or perpetrator of sexual abuse;

- d. Accepting responsibility for the care of L.B. and exposing him to substantial risk of serious harm by placing him in the foster home of Raquel Fuentes, a known dangerous placement, despite there being a placement hold on the foster home.
- e. Allowing L.B.'s behaviors to escalate and mental health to significantly deteriorate over the two (2) years he was in foster care when it exposed him to sexual abuse, physical abuse, emotional abuse, and neglect in foster care placements and failed to provide him with appropriate therapeutic placements and services to address his emotional needs.

110. OUR KIDS was deliberately indifferent to the serious psychiatric and psychological needs of children in its care and custody.

111. Despite possessing the authority and means to remedy the unconstitutional treatment of the child and seek safe therapeutic placement and services to address L.B.'s serious mental health needs, OUR KIDS was deliberately indifferent to L.B.'s right to receive treatment for his serious mental health needs by failing to timely address L.B.'s emotional, behavioral, and mental health needs, and failing to ensure L.B. received safe, stable, therapeutic placement, which subjected L.B. to further psychological harm and deterioration.

112. Despite possessing the authority and means to remedy the unconstitutional treatment of L.B., OUR KIDS was deliberately indifferent to L.B.'s medical, mental health, behavioral, psychological, and emotional needs and the substantial risk that L.B.'s condition would continue to deteriorate and OUR KIDS knowingly and recklessly disregarded an excessive risk to his health and safety.

113. OUR KIDS took said actions described herein knowing it was exposing children who were in State custody, including L.B., to a substantial risk of serious harm.

114. As a direct and proximate result of OUR KIDS' deliberate indifference and/or recklessness, L.B. suffered emotional harm and deteriorating mental health and was further subjected to sexual abuse, physical abuse, emotional abuse, and neglect, and will continue to suffer severe bodily harm and resulting pain and suffering, deterioration, discomfort, disability, mental anguish, loss of capacity for the enjoyment of life, and expenses of hospitalization, medical and nursing care and treatment, exacerbation of preexisting conditions, and other reasonably foreseeable compensatory damages. The losses are either permanent or continuing in nature and L.B. will suffer such losses in the future.

115. L.B. is obligated to the undersigned firms for payment of attorney's fees and costs, and seeks recovery of reasonable attorney's fees and costs pursuant to the provisions of 42 U.S.C. § 1988.

WHEREFORE, Plaintiff prays that this Honorable Court enter a judgment in favor of Plaintiff against Defendant, OUR KIDS OF MIAMI-DADE/MONROE, INC., for all recoverable damages, attorney's fees and costs, and all such other lawful damages and relief as the Court may deem appropriate and proper.

**COUNT IV – NEGLIGENCE CLAIM AGAINST
FLORIDA KEYS CHILDREN’S SHELTER, INC.**

116. Plaintiff hereby reavers and realleges paragraphs 1-4, 10-14, 19-20, 23-24, 30, 35-38, 40-42, 44-45, 52, 82, and 86 as if fully set forth herein.

117. At all times material hereto, FKCS, as a subcontracted community-based agency providing emergency shelter services to foster children in Monroe County, had the following statutory, contractual, and common law duties:

- a. To keep L.B. safe while in its care, custody, and supervision;
- b. To provide a safe, secure environment where L.B. was free from unreasonable risk of harm;
- c. To use reasonable care in the oversight and supervision of children placed at FKCS Poinciana Emergency Shelter, including L.B.;
- d. To deny L.B. admission into the FKCS Poinciana Emergency Shelter based on his special needs and emotional problems that FKCS could not accommodate;
- e. To protect L.B. from further abuse, neglect, and victimization;
- f. To ensure that all available information is obtained regarding the foster children placed at FKCS Poinciana Emergency Shelter, including whether the child had a history of sexual abuse, sexual acting out, and/or sexual aggression, and to implement precautionary measures to keep all foster children in that facility safe, including L.B.;
- g. To ensure safety plans, plans of care, and any other necessary safety measures were implemented to ensure all foster children with known sexual histories would not engage in further child-on-child sexual abuse incidents;
- h. To ensure that all recommendations from assessors, evaluators, and other professionals regarding L.B., were followed and implemented in a timely manner;
- i. To ensure that L.B. received appropriate services to meet his needs, including, but not limited to, individual counseling, education services, behavioral services, targeted case management, and psychiatric treatment;
- j. To continually assess the adequacy and safety of L.B.'s placement at FKCS Poinciana Emergency Shelter;
- k. To deny placement to children with sexual abuse histories when FKCS could not provide the level of supervision necessary to prevent further incidents of child-on-child sexual abuse;
- l. To ensure that all children in FKCS emergency shelter care, including L.B., were safe, appropriately cared for, and adequately supervised; and
- m. To properly report, investigate and take action on incidents of children in the custody and care of the State of Florida, including L.B., being sexually abused;

118. FKCS, through its agents and/or employees, breached said duties.

119. As a direct and proximate result of the aforementioned breaches, L.B. suffered emotional harm and deteriorating mental health and was further subjected to sexual abuse and neglect, and will continue to suffer severe bodily harm and resulting pain and suffering, deterioration, discomfort, disability, mental anguish, loss of capacity for the enjoyment of life, and expenses of hospitalization, medical and nursing care and treatment, exacerbation of preexisting conditions, and other reasonably foreseeable compensatory damages. The losses are either permanent or continuing in nature and L.B. will suffer such losses in the future.

WHEREFORE, Plaintiff demands judgment against Defendant, FLORIDA KEYS CHILDREN'S SHELTER, INC., for compensatory damages, costs, and all other such relief as the Court may deem just and proper.

**COUNT V – CULPABLE NEGLIGENCE CLAIM AGAINST
FLORIDA KEYS CHILDREN'S SHELTER, INC.**

120. Plaintiff hereby reavers and realleges paragraphs 1-4, 10-14, 19-20, 23-24, 30, 35-38, 40-42, 44-45, 52, 82, and 86 as if fully set forth herein.

121. The cumulative actions on the part of Defendant, FKCS, exhibited willful and wanton disregard of human rights, safety, and/or property in its provision of protective supervision to L.B. and/or exhibited reckless indifference or grossly careless disregard of human life in its provision of emergency shelter care and protective supervision to L.B. based upon the following facts:

- a. FKCS had knowledge that it admitted foster children with serious emotional and behavioral problems into FKCS Poinciana Emergency Shelter that the emergency shelter was not equipped to handle, including L.B.;
- b. FKCS failed to deny L.B. admission into FKCS Poinciana Emergency Shelter despite knowledge that it could not meet his needs or protect him from harm;

- c. FKCS accepted young children, including L.B., into its dangerous emergency shelters with knowledge that these children would be exposed to harms including sexual abuse;
- d. FKCS accepted children with sexual abuse and/or perpetration histories into its dangerous emergency shelters without implementing sufficient safety plans to prevent further incidents of sexual abuse;
- e. FKCS failed to deny D.M. admission into FKCS Poinciana Emergency Shelter despite knowledge that it could not protect other children, including L.B., from sexual abuse by D.M.;
- f. FKCS knew that D.M. was actively seeking to sexually abuse L.B. while both children were placed at the Poinciana Emergency Shelter, but it failed to recommend D.M.'s immediate removal from FKCS Poinciana Emergency Shelter, L.B.'s immediate removal from FKCS Poinciana Emergency Shelter, or take any action whatsoever to prevent L.B. from being sexually abused by D.M.;
- g. FKCS had knowledge that FKCS Poinciana Emergency Shelter was a dangerous placement for L.B., that it could not meet his mental health needs or protect him from further harm, and failed to ensure he received the appropriate services and safe placement he needed;
- h. FKCS failed to ensure L.B., who was in its physical custody, received timely individual counseling, behavioral services, and psychiatric treatment when he was placed at FKCS Poinciana Emergency Shelter despite knowledge that these services had been recommended and were necessary to meet his needs based upon professional judgment to prevent his deterioration; and

i. FKCS failed to ensure the recommendations from L.B.'s Level of Care Assessment were immediately implemented despite knowledge that failure to implement said recommendations was flagrant and reckless disregard for L.B.'s safety and placed him at risk for harm;

122. The caps and limitations of §§ 409.1671 and 409.993, Florida Statutes, are inapplicable to L.B.'s damages, which are described in paragraph 119 because of FKCS' reckless, willful and dangerous behaviors and because FKCS did not meet other statutory requirements and conditions regarding appropriate coverage as to avail itself of said caps.

WHEREFORE, Plaintiff demands judgment for damages in excess of the statutory caps found in §§ 409.1671 and 409.993, Florida Statutes, against Defendant, FLORIDA KEYS CHILDREN'S SHELTER, INC.

**COUNT VI – 42 U.S.C. § 1983 CLAIM AGAINST
FLORIDA KEYS CHILDREN'S SHELTER, INC.**

123. Plaintiff reavers and realleges paragraphs 1-4, 10-14, 19-20, 23-24, 30, 35-38, 40-42, 44-45, 52, 82, and 86 above as if fully set forth herein.

124. This action arises under and is brought pursuant to 42 U.S.C. §1983 to remedy the deprivation, under color of state law, of Plaintiff's guaranteed rights under the Fourteenth Amendment of the United States Constitution.

125. At all times material hereto, FKCS was a "person" and was acting under the color of state law within the meaning of 42 U.S.C. § 1983.

126. At all times material hereto, pursuant to §§ 409.1671(1)(f)(1) and 409.986, et seq., Florida Statutes, although foster care was a public function traditionally within the exclusive

prerogative of the State of Florida, FKCS assumed responsibility as a private non-governmental entity.

127. At all times material hereto, it was clearly established that children in the physical custody of the state foster care system, including L.B., had the constitutionally protected right to be safe and free from unreasonable risk of harm and to receive services in accordance with professional judgment.

128. FKCS established and enforced a custom, policy, or practice of allowing young foster children with known mental, behavioral, and emotional problems to be placed in dangerous emergency shelter placements, notwithstanding that it was exposing such children to the dangers of sexual abuse.

129. FKCS established and enforced a custom, policy, or practice of accepting children with sexual abuse and/or perpetration histories into its dangerous emergency shelters without implementing sufficient safety plans to prevent further incidents of sexual abuse.

130. FKCS established and enforced a custom, policy, or practice that failed to ensure that mental health and behavioral needs of foster children in state custody were assessed, evaluated, and treated in accordance with professional judgment.

131. FKCS established and enforced a custom, policy, or practice that failed to require recommendations from psychological evaluations, psychiatric evaluations, mental health evaluations, and Level of Care Assessments to be followed in accordance with professional judgment, and on a widespread basis exposing children in its care to the substantial risk of serious harm.

132. At all times material hereto, FKCS did not provide services in accordance with professional judgment, was deliberately indifferent and/or acted with reckless disregard to the Plaintiff's health, safety, and welfare and Constitutional and federal rights, including, without

limitation, by utilizing its dangerous emergency shelters for young foster children who could not be safely maintained there; failing to ensure that L.B. was placed in a safe environment that could meet his needs; failing to ensure a sufficient safety plan was implemented and followed to protect L.B., a younger vulnerable child, from sexual abuse by D.M., an older sexual abuse victim and/or perpetrator; failing to ensure that L.B. received individual counseling as necessary and recommended; failing to ensure that L.B. received behavior analyst services as necessary and recommended; failing to ensure L.B. was placed in a specialized therapeutic foster home when recommended; and by directly exposing L.B. to sexual abuse and neglect and causing his mental health condition to deteriorate.

133. FKCS violated L.B.'s Constitutional rights and exposed him to a substantial risk of serious harm by:

- a. Accepting placement of and responsibility for L.B. at the FKCS Poinciana emergency shelter, a dangerous placement that could not protect L.B. from harm.
- b. Accepting responsibility for the care of L.B. knowing that L.B. was in immediate need of therapeutic and/or behavioral services, but failing to refer him for immediate therapeutic and/or behavioral services.
- c. Accepting responsibility for the care of L.B. and exposing him to substantial risk of serious harm by failing to ensure a sufficient safety plan was implemented and followed to protect L.B., a younger vulnerable child, from sexual abuse by D.M., an older known victim and/or perpetrator of sexual abuse.
- d. Knowing that D.M. was actively seeking to sexually abuse L.B. while both children were placed at the Poinciana Emergency Shelter, but failing to

recommend D.M.'s immediate removal from FKCS Poinciana Emergency Shelter, L.B.'s immediate removal from FKCS Poinciana Emergency Shelter, or take any action whatsoever to prevent L.B. from being sexually abused by D.M.

e. Allowing L.B.'s behaviors to escalate and mental health to significantly deteriorate while placed at FKCS when it exposed him to sexual abuse and neglect in foster care placements and failing to ensure he received appropriate therapeutic placements and services to address his emotional needs.

134. FKCS was deliberately indifferent to the serious psychiatric and psychological needs of children in its care, custody, and supervision.

135. Despite possessing the authority and means to remedy the unconstitutional treatment of the child and seek safe therapeutic placement and provide services to address L.B.'s serious mental health needs, FKCS was deliberately indifferent to L.B.'s right to receive treatment for her serious mental health needs by failing to timely address L.B.'s emotional, behavioral, and mental health needs, and failing to ensure L.B. received safe, stable, therapeutic placement, which subjected L.B. to sexual abuse, further psychological harm and deterioration.

136. Despite possessing the authority and means to remedy the unconstitutional treatment of L.B., FKCS was deliberately indifferent to L.B.'s medical, mental health, behavioral, psychological, and emotional needs and the substantial risk that L.B.'s condition would continue to deteriorate and FKCS knowingly and recklessly disregarded an excessive risk to his health and safety.

137. FKCS took said actions described herein knowing it was exposing children who were in State custody, including L.B., to a substantial risk of serious harm.

138. As a direct and proximate result of FKCS' deliberate indifference and/or recklessness, L.B. suffered emotional harm and deteriorating mental health and was further subjected to sexual abuse and neglect, and will continue to suffer severe bodily harm and resulting pain and suffering, deterioration, discomfort, disability, mental anguish, loss of capacity for the enjoyment of life, and expenses of hospitalization, medical and nursing care and treatment, exacerbation of preexisting conditions, and other reasonably foreseeable compensatory damages. The losses are either permanent or continuing in nature and L.B. will suffer such losses in the future.

139. L.B. is obligated to the undersigned law firms for payment of attorney's fees and costs, and seeks recovery of reasonable attorney's fees and costs pursuant to the provisions of 42 U.S.C. § 1988.

WHEREFORE, Plaintiff prays that this Honorable Court enter a judgment in favor of Plaintiff against Defendant FLORIDA KEYS CHILDREN'S SHELTER, INC., for all recoverable damages, attorney's fees and costs, and all such other lawful damages and relief as the Court may deem appropriate and proper.

COUNT VII – NEGLIGENCE CLAIM AGAINST
FAMILY RESOURCE CENTER OF SOUTH FLORIDA, INC.

140. Plaintiff hereby reavers and realleges paragraphs 1-4, 8-9, 15-20, 42, 44, 48, 56-57, 60, 63-65, 68-70, 82, and 86 as if fully set forth herein.

141. At all times material hereto, FRC, as the agency subcontracted to provide courtesy case management services to L.B. in Miami-Dade County, had the following statutory, contractual, and common law duties:

- a. To keep L.B. safe while in its care, custody, and supervision;
- b. To provide a safe, secure environment where L.B. was free from unreasonable risk of harm;

- c. To use reasonable care in the oversight and supervision of L.B.;
- d. To have available an appropriate continuum of services to address L.B.'s mental health and behavioral;
- e. To protect L.B. from further abuse, neglect, and victimization;
- f. To investigate the fitness of Raquel Fuentes as a foster parent for L.B., taking into account his individualized physical, emotional, behavioral, and social needs, as well as his background and history;
- g. To continually assess the adequacy and safety of L.B.'s placement in Raquel Fuentes' foster home;
- h. To ensure that all recommendations from assessors, evaluators, and other professionals regarding L.B., were followed and implemented in a timely manner;
- i. To ensure that L.B. received appropriate services to meet his needs, including, but not limited to, individual counseling, education services, behavioral services, targeted case management, and psychiatric treatment; and
- j. To properly report, investigate and take action on incidents of children in the custody and care of the State of Florida, including L.B., being abused and/or neglected in licensed foster care;

142. FRC, through its agents and/or employees, breached said duties.

143. As a direct and proximate result of the aforementioned breaches, L.B. suffered emotional harm and deteriorating mental health and was further subjected to physical abuse, emotional abuse, and neglect, and will continue to suffer severe bodily harm and resulting pain and suffering, deterioration, discomfort, disability, mental anguish, loss of capacity for the enjoyment of life, and expenses of hospitalization, medical and nursing care and treatment, exacerbation of preexisting conditions, and other reasonably foreseeable compensatory damages. The losses are either permanent or continuing in nature and L.B. will suffer such losses in the future.

WHEREFORE, Plaintiff demands judgment against Defendant, FAMILY RESOURCE CENTER OF SOUTH FLORIDA, INC., for compensatory damages, costs, and all other such relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury of all issues so triable in this case.

DATED this 6th day of February, 2018.

Respectfully submitted,

TALENFELD LAW
Attorneys for Plaintiff
Bank of America Plaza
Fort Lauderdale, Florida 33322
Telephone: 754-888-5437
Facsimile: 954-644-4848

By: /s/ Howard M. Talenfeld
HOWARD M. TALENFELD
Florida Bar No. 312398
STACIE J. SCHMERLING
Florida Bar No. 0083862
LISA M. ELLIOTT, ESQ.
Florida Bar No. 85862